

**MORRIS PLANNING & ZONING COMMISSION**  
COMMUNITY HALL • 3 EAST STREET • MORRIS, CONNECTICUT 06763

Workshop Meeting Morris Town Hall and Live on Zoom

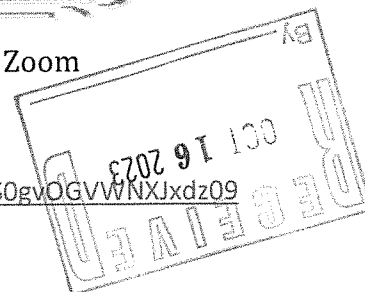
October 18<sup>th</sup>, 2023 at 7:00 pm

Call in # 1-929-205-6099

<https://us02web.zoom.us/j/84045911584?pwd=OC9lc2VOZjFQUWxtSOgvOGVWNXJxdz09>

Meeting ID: 840 4591 1584

Passcode: 977248



<b>David Wiig Chairman</b>		
Barbara Bongolotti	Dylan Hovey	Alternates:
Helen White	William Ayles Jr. (Vice-Chairman)	Chris Ciaffaglione
Veronica Florio	David Geremia Jr.	Geoff Paletsky
Douglas Barnes (Secretary)	Kim Dore	Ericka Leone
Staff: ZEO Tony Adili		
Planner Janell Mullen		

**Agenda**

**1. Call to Order**

**2. Agenda Review**

**3. New Business**

**4. Old Business**

**a. PA 23-142: made changes to laws on zoning for licensed family and group child care homes located in residences with certain requirements.**

**b. Multi-family Housing**

*Public Act 21-29 (Effective January 1, 2023) Requires municipalities to enable multi-family housing as well as requires municipalities to adopt an Affordable Housing Plan by July 2022.*

**c. Addressing Housing Needs**

**d. Special Exception/Site Plan Changes to Regulations**

**e. Trailer Amendment to the Regulations**

**f. Special Event Amendment to regulations discussion**

**g. Short Term Rentals**

*Public Act 21-29 (Effective January 1, 2023) Accessory dwelling units used as short-term rentals can be regulated locally*

**5. Other Business**

**a. Board Membership**

**6. Communications and Bills**

**a. Steve Byrne Bill**

**7. Adjourn**

# Town's Airbnb decision appealed

## Couple says such use is allowed by Woodbury regulations

BY STEVE BIGHAM  
REPUBLICAN-AMERICAN

WOODBURY — A local couple is appealing the town's decision to issue a cease-and-desist of its Airbnb operation at 361 Railtree Hill Road.

In May, the Woodbury Zoning office ordered Daniel and Francesca Lisk to close up their Airbnb after receiving complaints about the lodging business from neighbors. One neighbor said it felt like a hotel had moved in next door.

Airbnb, Inc. is a San Francisco-based company operating an online marketplace for short- and long-term homestays and experiences. The company acts as a broker and charges a commission from each booking.

Town zoning officials had determined that allowing people to stay at a home for a short-term, vacation-type experience was not a permitted residential use of the property.

Town officials said the fact that the Lisks, who reside in New York, do not live at the property full-time, was also a factor.

But the Lisk's attorney, Franklin Pilicy, argued at a Sept. 18 public hearing of the Woodbury Zoning Board of Appeals that an Airbnb or short-term rental is, in fact, a permitted use. He said his clients had every right to run an Airbnb on the property.

He pointed to a recent case in Branford where a trial court ruled in favor of an Airbnb owner's appeal of the town's cease-and-desist. In that case, Pilicy said, the court said that the Airbnb was a permitted use because it was located in a residential zone and was rented to single



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**This home at 361 Railtree Hill Road in Woodbury is the subject of a zoning dispute between the owners who are operating an Airbnb there and town zoning officials.**

families, a permitted use. The court also found that there was no mention in the town's regulations in regards to the difference between long-term and short-term renting of residential properties.

But Woodbury Town Attorney, Tom Kaelin, said the issue is not the length of time of the rental, but rather, the use of the property.

Kaelin said Woodbury regulations permit apartments with no limitation or time frame of rental. Kaelin said people who rent an Airbnb are not making it their residence. They are, instead, using it for vacations, escapes, or other non-residential uses, which is not permitted.

Kaelin said the court referenced by Pilicy does not support the appellant's position.

Kaelin said he thinks the courts got it wrong by focusing on the length of time rather than the fact that an Airbnb is not a residential use of a property.

"When they do a vacation rental, they are not making it

their residence. That is what the regulations recognize. Residential use is where it is going to be your home for whatever length of time. Time is not the determining factor. It is the intended use," Kaelin said.

Kaelin said indications of a person taking up residence include using a property's address to register to vote, signing up for utilities and storing personal property on site.

Kaelin said Airbnb-type uses did not exist when Woodbury zoning regulations were first written, and noted that if the regulations do not expressly permit an activity, it is prohibited.

Kaelin added that the Woodbury Zoning Commission recently determined that short-term renting was not permitted as a residential use.

Kaelin said permitted uses for boarding, bed-and-breakfast, country inns those are things that are regulated and are different from residential usage.

Pilicy questioned at what

point does any rental of property become the degree of permanency required.

"If the time frame is going to be set, it needs to be included in the new regulation, not interpreted by an old regulation to prohibit something that did not exist when the regulations were drafted, Pilicy said.

Pilicy argued that the town should wait to make a decision for the courts to decide and recommended the public hearing remain open, but Kaelin said state statutes require the town to decide on the issue, and said the court decision may not have any impact on how the town interprets its own zoning regulations.

Neighbor Stan Cher said he has lived on Railtree Hill Road for 38 years and finds it "disconcerting" that "all of a sudden there is something like a hotel next to you."

Neighbor John Borduas said he is against "strangers in and out every weekend."

Pilicy suggested the town was engaged in "selective zoning," by going after his clients' property, but not other Airbnb's that are advertised in Woodbury.

Pilicy said the property is currently being rented out for a minimum of 30 days, no longer just for weekend stays, since his clients first received their cease-and-desist order.

The Lisks said they did not buy the house with the intention of renting as a business, but it allowed them, financially, to keep the house as a weekend and future retirement home.

The Zoning Board of Appeals closed the hearing and has 65 days to make a final decision.